

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 15494
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On February 15, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable years 1997 and 1998 in the total amount of \$5,787.

On March 17, 2001, the taxpayers submitted a 1998 Idaho income tax return, which the Tax Discovery Bureau (Bureau) took as a protest of the Notice of Deficiency Determination. The Tax Commission reviewed the matter and accepted the taxpayers' 1998 return as a protest of the Notice of Deficiency Determination pertaining to the taxable year 1998 but did not accept it as a protest of the 1997 taxable year.

The Tax Commission sent the taxpayers a letter on June 20, 2001, telling them that they did not have a perfected protest for the taxable year 1997. In the letter, the Tax Commission told the taxpayers what was necessary to perfect their appeal and told them the time in which they needed to have their appeal perfected. On July 17, 2001, the Tax Commission received a 1997 Idaho income tax return from the taxpayers to perfect their appeal. Although the 1997 return did not provide all the necessary elements to perfect the taxpayers' appeal for the taxable year 1997, the Tax Commission did accept the 1997 return as perfecting the taxpayers' appeal.

The Tax Commission reviewed the taxpayers' returns and found that the return submitted for 1997 did not appear to be complete [Redacted]. The taxpayers also failed to include their W-2 statements to verify the amount of their Idaho withholdings.

The Tax Commission sent the taxpayers a letter asking them to provide copies of their W-2 statements and any additional information about the discrepancies [Redacted]. The taxpayers failed to respond. Therefore, the Tax Commission issues its decision based upon the information presently available.

Idaho Code section 63-3002 states the legislative intent of the Idaho income tax act. It states that the provisions of the Idaho act are to be identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, subject to special modifications as provided for in the Idaho Code. [Redacted]. This amount was not included on the return submitted by the taxpayers. Since nonemployee compensation is included in federal gross income, which becomes federal taxable income, the Tax Commission added the nonemployee compensation to the taxpayers' 1997 Idaho return.

As for the withholdings, the Tax Commission was able to verify \$1,270 of the taxpayers' withholdings. The taxpayers claimed withholdings of \$2,190 but did not provide verification of that amount. The Tax Commission can only allow the verified withholdings.

After the Tax Commission's adjustments, the taxpayers' 1997 return resulted in an income tax deficiency. Therefore, in accordance with Idaho Code sections 63-3045 and 63-3046, the Tax Commission added interest and penalty to the tax deficiency.

The Tax Commission reviewed the 1998 return submitted by the taxpayers and found it represents the taxpayers' Idaho taxable income better than the return prepared by the Bureau.

Therefore, the Tax Commission accepts the taxpayers' 1998 return, subject to the normal review processes of the Tax Commission.

WHEREFORE, the Notice of Deficiency Determination dated February 15, 2001, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX/(REFUND)</u>	<u>INTEREST</u>	<u>PENALTY</u>	<u>TOTAL</u>
1997	\$915	\$276	\$229	\$1,420
1998	( 35)			( 35)
			TOTAL DUE	<u>\$1,385</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is included with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

## CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]                      Receipt No. [Redacted]  
[Redacted]      [REDACTED]

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ADMINISTRATIVE ASSISTANT 1